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IN THE UNITED STATES DISTRICT COURT
5
FOR THE NORTHERN DISTRICT OF CALIFORNIA
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7 ANTHONY TORRES,) No. C 11-2638 JSW (PR)
8 Plaintiff,) ORDER DENYING MOTIONS TO
9 v.) STAY, TO COMPEL AND FOR
10 G. LEWIS; MATTHEW CATE; G.) APPOINTMENT OF COUNSEL;
11 KELLEY) EXTENDING TIME FOR
12 Defendant.) OPPOSITION

(Docket Nos. 16, 19, 20)

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14 Plaintiff, a California prisoner incarcerated at Pelican Bay State Prison (“PBSP”)
15 has filed this pro se civil rights complaint under 42 U.S.C. § 1983. Defendants have a
16 motion for summary judgment in which they argue, inter alia, that they are entitled to
17 qualified immunity. Plaintiff has not filed an opposition, but rather has filed motions to
18 compel discovery and for appointment of counsel. Defendants move to stay discovery
19 until their argument regarding qualified immunity is resolved. Defendants’ qualified
20 immunity argument is based on evidence that conflicts with factual allegations in the
21 complaint, including the existence of fire sprinklers in Plaintiff’s area of the prison,
22 whether the prison is situated in a tsunami evacuation zone, and whether there is a
23 tsunami evacuation plan. Qualified immunity cannot be decided as long as there are
24 material factual issues in dispute, and Plaintiff’s discovery efforts are directed at these
25 factual issues. Accordingly, the motion to stay discovery is DENIED. (Docket No. 16.)
26 Defendants shall respond to Plaintiff’s discovery requests within **7 days** of the date this
27 order is filed.

28 Plaintiff’s motion to compel is DENIED because he has not complied with the

1 requirements to meet and "confer" with Defendants prior to filing such a motion. Fed. R.
2 Civ. P. 37(a). (Docket No. 19.) Plaintiff's motion for appointment of counsel is
3 DENIED. (Docket No. 20.)

4 IT IS SO ORDERED.

5 DATED: April 13, 2012

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7 JEFFREY S. WHITE
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY TORRES,

Case Number: CV11-02638 JSW

Plaintiff,

CERTIFICATE OF SERVICE

V.

G. LEWIS et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 13, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Anthony Torres
Pelican Bay State Prison
P.O. Box 7500
#K59800
Crescent City, CA 95532

Dated: April 13, 2012

Jennifer Ottolini
Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk